

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 483 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

N N PANDYA

STENOGRAPHER GR.I

Versus

STATE OF GUJARAT

Appearance:

MS MN KERAWALA for MR BP TANNA for Appellant

MR BY MANKAD instructed by

M/S MG DOSHIT & CO for Respondent No. 1

CORAM : MR.JUSTICE B.C.PATEL and

MR.JUSTICE C.K.BUCH

Date of decision: 11/11/98

ORAL JUDGEMENT (Per Patel, J.)

The appellant, original petitioner, being aggrieved by an order passed by the learned Single Judge on 7.8.1994 in Special Civil Application No. 3597 of 1984, has preferred this appeal.

2. Reading Annexure 'B' to the petition, it appears that by passing a resolution dated 5th February 1979, the

Government of Gujarat accorded sanction to the terms and conditions of deputation of Shri N.N. Pandya, Stenographer Gr. I (Gujarat) to the office of the Prime Minister, Government of India, at New Delhi. The terms and conditions of the deputation was incorporated in the annexure to the said resolution. So far as Annexure 'A' is concerned, it clearly transpires that the appellant was on deputation for one year only. While on deputation, vide Annexure 'E', Private Secretary to the Prime Minister fixed the pay of the appellant at Rs.850/(officiating pay Rs.845/- plus personal pay Rs.5/-) per month in the cadre of Stenographer Gr.I. (Gujarati), plus deputation duty allowance at 20% thereof while holding the post of Personal Assistant to the Prime Minister with effect from 7th July 1978. The appellant was also entitled to draw special pay of Rs.75/- per month as attached to the post of Personal Assistant to the Prime Minister. On repatriation, the appellant was placed in the cadre in which he was before deputation and was put in the grade which he was drawing, vide Annexure 'A' dated 4.12.1979. By filing the petition, the appellant prayed that the order passed on 4.12.1979 putting him back in the grade in which he was earlier drawing, be quashed and set aside. It was further prayed that the appellant be held eligible to draw basic pay of Rs.880/- per month.

3. Learned Single Judge has pointed out that as the then Prime Minister Honourable Shri Morarji Desai was in need of a Gujarati Stenographer and therefore the services of the appellant was requisitioned. On repatriation, the Government passed an order directing that from the date of his repatriation, he would be drawing the pay in the original time scale.

4. On behalf of the appellant, before the learned Single Judge, it was urged that an increment once granted cannot be taken away. Learned Single Judge observed that it was not an increment granted to him for all time to come and they were given to him because of the special exigency. We have gone through the judgment and the reasons given by the learned Single Judge for arriving at the conclusion that the petition requires to be rejected. We do not find any reason to interfere with the reasonings. If a person is given some special benefits during the course of his deputation, the same cannot be continued after repatriation. Increment which thus was granted while deputing the appellant to the Prime Minister's Office cannot be said to be granted for all time to come. Nothing is pointed out as to the speciality acquired by the appellant or that he was

exceptionally brilliant so as to claim the benefit of rule 57(a) of the Civil Service Rules.

5. It is pointed out to us that in some cases, even after a person is repatriated, benefit extended while on deputation has been continued after repatriation. If that be so, it will be for the appellant to point out the incident to Government and to make out a case for claiming the benefit. We do not find any reason to interfere with the order passed by the learned Single Judge. Therefore, we dismiss the appeal, but in the light of the fact that it is contended before us that in some cases benefit extended while on deputation has been continued after repatriation, we give liberty to the appellant to make a representation to the authorities, which the authorities shall decide on its own merit.

csm./ -----